IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

C.W.P. No. 1795 of 2005
Date of decision May 1, 2007

Bhagwan Sahai

.....Petitioner

Versus

Food Corporation of India and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE J.S. KHEHAR AND
HON'BLE MR.JUSTICE L.N. MITTAL

Present: Mr. V. K. Shukla, Advocate
for the petitioner.

Mr. Amit Dhawan, Advocate
for respondents No. 1 and 2.

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J.S.Khehar, J (Oral)

The petitioner was inducted into the service of the respondents as a watchman in the year 1971 and thereafter was promoted as an Assistant Gr. III(D) on regular basis by an order dated April 6, 1978. Eventually, he was promoted as Assistant Gr.II(D) by an order dated April 7, 2001.

On account of having rendered more than 12 years of service against the post of Assistant Gr.III (D), the petitioner claimed that he should be placed in the selection grade of Rs.1650-60-2130-75-2655/-.

According to the learned counsel for the petitioner, the petitioner ought to have been placed in the selection grade w.e.f. 1.12.1990. In fact learned counsel for the petitioner placed reliance on an office order dated 28/30.8.1994 (Annexure P-2) wherein consequent upon the directions issued by the Senior Regional Manager, the claim of the petitioner was duly

considered and he was ordered to be placed in the selection grade subject to the condition that he accepted to be placed in the aforesaid grade.

On account of the fact that the selection grade claimed by the petitioner w.e.f. 1.12.1990 was not released to him, he approached this Court in the first instance by filing CWP No. 5640 of 2004. The aforesaid writ petition was disposed of by this Court by an order dated 1.4.2004 wherein a direction was issued to the respondent to decide the justice demand notice issued by the petitioner wherein he had claimed the release of selection grade w.e.f. 1.12.1990. In compliance with the directions issued by this Court in CWP No. 5640 of 2004, the Senior Regional Manager considered the claim of the petitioner and found no merit therein. The claim of the petitioner for being placed in the selection grade was declined by the Senior Regional Manager of Food Corporation of India, Regional Office, Punjab by his Office order dated 15/19.6.2004.

Through the instant writ petition the petitioner has impugned the order dated 15/19.6.2004 (Annexure P-3).

We have perused the impugned order. The solitary reason recorded therein for declining selection grade to the petitioner is that the petitioner was granted an opportunity to be placed in the selection grade through a communication dated 23.8.1994 (Annexure P-2). He did not accept the aforesaid offer within a reasonable time. He, however chose to accept the aforesaid offer on 24.2.2003. It is the contention of the learned counsel for the respondents in support of the impugned order that the petitioner ought to have accepted the offer afforded to him through communication dated 23.8.1994 within some reasonable time. However, the petitioner took almost nine long years to accept the same and

in such circumstances, the claim of the petitioner was declined as not maintainable in law.

We have considered the aforesaid aspect of the matter and as well as the solitary contention of the learned counsel for the petitioner that the respondents had found the petitioner suitable and eligible for being placed in the selection grade and had duly communicated an order in this behalf to him dated 23.8.1994 (Annexure P-2). It is, therefore, the contention of the learned counsel for the petitioner that the respondents could not thereafter arbitrarily deny to him the selection grade which the petitioner was justifiably entitled to.

Having examined the controversy in its totality, we are of the view that it is misconceived for the petitioner to assert that he was not allowed the selection grade by the respondents. As a matter of fact, the petitioner was communicated an order dated 28/30.8.1994 offering him the selection grade subject to his acceptance. The aforesaid offer was unjustifiably not accepted by the petitioner within a reasonable time. It was too late in the day after nine long years when the petitioner eventually woke up to the realities of the matter and decided to accept the offer made to him on 23.8.1994. In the facts and circumstances of this case, we are satisfied that the determination at the hands of the respondents in furtherance of the directions issued by this Court in CWP No. 5640 of 2004 was fully justified in not allowing the petitioner at this belated juncture the selection grade which was unilaterally offered to him as far back as on 28/30.8.1994.

For the reasons recorded herein above, we find no merit

in the present case and the same is accordingly dismissed.

(J. S. KHEHAR)
JUDGE

May 1, 2007 **(L.N.MITTAL)**
archana **JUDGE**